Senate File 2178 - Introduced

SENATE FILE 2178
BY SMITH

A BILL FOR

- 1 An Act relating to a declaration concerning the final
- 2 disposition of a person's remains and including
- 3 applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. Section 144B.1, subsection 2, Code 2016, is
- 2 amended to read as follows:
- 3 2. "Designee" means a person named in a declaration under
- 4 chapter 144C that is contained in or attached to a durable
- 5 power of attorney for health care.
- 6 Sec. 2. Section 144C.2, subsection 8, Code 2016, is amended
- 7 to read as follows:
- 8 8. "Declaration" means a written instrument, contained in or
- 9 attached to a durable power of attorney for health care under
- 10 chapter 144B, that is executed by a declarant in accordance
- 11 with the requirements of this chapter, and that names a
- 12 designee who shall have the sole responsibility and discretion
- 13 for making decisions concerning the final disposition of the
- 14 declarant's remains and the ceremonies planned after the
- 15 declarant's death, except as provided in section 144C.3,
- 16 subsection 1.
- 17 Sec. 3. Section 144C.3, subsections 1 and 2, Code 2016, are
- 18 amended to read as follows:
- 19 1. A declaration shall name a designee who shall have
- 20 the sole responsibility and discretion for making decisions
- 21 concerning the final disposition of the declarant's remains and
- 22 the ceremonies planned after the declarant's death. However, a
- 23 declaration may include a directive that the declarant does or
- 24 does not want to be cremated. A designee shall not authorize
- 25 cremation when a declaration includes a directive that the
- 26 declarant does not want to be cremated or authorize alternative
- 27 arrangements when a declaration includes a directive that the
- 28 declarant wants to be cremated. A declaration may name one or
- 29 more alternate designees and may include contact information
- 30 for the designees and alternate designees.
- 31 2. A declaration shall not include directives for final
- 32 disposition of the declarant's remains and shall not include
- 33 arrangements for ceremonies planned after the declarant's
- 34 death, except as provided in subsection 1.
- 35 Sec. 4. Section 144C.6, subsection 1, Code 2016, is amended

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- 1 to read as follows: 1. A declaration executed pursuant to this chapter may but 3 need not be in the following form: I hereby designate as my designee. My designee 5 shall have the sole responsibility for making decisions 6 concerning the final disposition of my remains and the 7 ceremonies to be performed after my death. 8 (One of the following shall be initialed by the declarant) 9 I want my remains to be cremated. 10 I do not want my remains to be cremated. 11 I want to allow the person with the right to control 12 final disposition of my remains to decide whether to cremate 13 my remains or to make alternative arrangements for disposition 14 of my remains. 15 This declaration hereby revokes all prior declarations. 16 This designation becomes effective upon my death. 17 My designee shall act in a manner that is reasonable under 18 the circumstances. I may revoke or amend this declaration at any time. 20 agree that a third party (such as a funeral or cremation 21 establishment, funeral director, or cemetery) who receives a 22 copy of this declaration may act in reliance on it. Revocation 23 of this declaration is not effective as to a third party until 24 the third party receives notice of the revocation. My estate 25 shall indemnify my designee and any third party for costs 26 incurred by them or claims arising against them as a result of 27 their good faith reliance on this declaration. 28 I execute this declaration as my free and voluntary act. 30 Sec. 5. Section 144C.6, subsection 2, unnumbered paragraph 31 1, Code 2016, is amended to read as follows: A declaration executed pursuant to this chapter shall 32
 - 1 care under chapter 144B, and is dated and signed by the

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33 be in a written form that substantially complies with the 34 form in subsection 1, is properly completed, is contained 35 in or attached to a durable power of attorney for health

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- 2 declarant or another person acting on the declarant's behalf
- 3 at the direction of and in the presence of the declarant. In
- 4 addition, a declaration shall be either of the following:
- 5 Sec. 6. APPLICABILITY. This Act applies to a declaration
- 6 executed by a declarant pursuant to the provisions of this Act
- 7 on or after the effective date of this Act.
- 8 EXPLANATION
- 9 The inclusion of this explanation does not constitute agreement with 10 the explanation's substance by the members of the general assembly.
- 11 This bill provides that a written declaration executed
- 12 by a person naming a designated adult to make decisions
- 13 concerning the final disposition of the person's remains and
- 14 the ceremonies planned after the person's death is not required
- 15 to be contained in or attached to a durable power of attorney
- 16 for health care. A coordinating change is made in Code section
- 17 144B.1(2).
- 18 The bill also provides that while such a declaration
- 19 otherwise gives the designee sole responsibility and discretion
- 20 for making such decisions, the declaration may include a
- 21 directive indicating whether the declarant does or does not
- 22 want to be cremated. If the declaration includes such a
- 23 directive, the designee does not have discretion to make a
- 24 different decision concerning cremating or not cremating the
- 25 declarant's remains. The bill provides that the written form
- 26 of the declaration shall include alternative statements, one of
- 27 which shall be initialed by the declarant, indicating whether
- 28 the declarant wants the declarant's remains to be cremated, not
- 29 to be cremated, or wants to allow the designee to make that
- 30 decision.
- 31 The provisions of the bill are applicable to declarations
- 32 executed by a declarant on or after the effective date of the
- 33 bill.